



February 24, 2004

Country of Origin Labeling Program  
Agriculture Marketing Service  
USDA STOP 0249, Room 2092-S  
1400 Independence Avenue, SW  
Washington, D.C. 20250-0249

Desk Officer for Agriculture  
Office of Information and Regulatory Affairs,  
Office of Management and Budget  
New Executive Office Building  
725 17<sup>th</sup> Street, NW  
Room 725  
Washington, D.C. 20503

Re: Docket No. LS-03-04

Dear Sirs:

On behalf of the farming and ranching members of the National Farmers Union, I am pleased to respond to the Federal Register (Volume 68, Number 210, pages 61944-61985) notice and request for comment on guidelines for implementation of mandatory country-of-origin labeling dated October 30, 2003. National Farmers Union is a general farm organization dedicated to protecting and enhancing the economic well-being and quality of life of family farmers and ranchers and their rural communities.

The National Farmers Union has been steadfast in its support for mandatory country-of-origin labeling (COOL) as a marketing tool for U.S. producers and an opportunity for consumers to make informed choices in the retail marketplace. The U.S. Department of Agriculture's proposed rule made significant strides in implementing this law and we commend that effort. We believe there are further steps the department can and should take to ensure the final rule minimizes the burden on producers and is cost-effective for consumers.

Of utmost concern within the proposed rule, is the provision allowing livestock packers and processors legal access to producer records. There is a large conflict of interest in allowing the packers, who have opposed mandatory COOL from day one, to have authority to audit producer records. It must be noted that many packers today own their own livestock. According to USDA, captive supplies controlled by processors accounted for 32 percent of all beef marketed in 1999. In addition to packers controlling their own supply of domestic livestock, they also import livestock. Therefore, meatpackers are able to manipulate the market and directly compete with independent livestock producers. To allow the packer interests to determine compliance requirements under the law creates a serious conflict of interest and is contrary to congressional intent. We do not believe the producer recordkeeping requirements need to be costly, burdensome or potentially market-distorting by making producer compliance subject to a process initiated and determined by livestock packers. The labeling law signed by President Bush assigned the duty of implementation and oversight to USDA. We believe the USDA should establish the recordkeeping standards, including rules to allow the self-verification of origin, and should also perform any audits or other compliance determinations required by the law.

To simplify the recordkeeping process, USDA should:

- A.) Allow U.S. producers to self-verify where their livestock were born and/or raised.
- B.) Allow producers, processors and retailers to maintain records in a manner of their choosing as long as the information is readily available, is maintained throughout the required period and can be transferred to a standardized form in the event of an audit by USDA. The length of time required to maintain such records should be in accordance with the Food and Drug Administration recordkeeping rule for the Bioterrorism Act of 2002.
- C.) Require the country-of-origin information on imported products to be maintained and provided to subsequent purchasers of those commodities through branding, certification or other acceptable methods.
- D.) Require importers of designated commodities to maintain adequate records to reconcile purchases, inventories and sales of imported and domestic commodities.

The Agriculture Department previously released an extensive list of documents and records that could be useful to verify compliance with the law. Farmers Union would have preferred to see a selection of those examples cited in the proposed rule as the records a producer should retain for evidence in the event of a USDA compliance review. We believe it would be prudent for the department to review the labeling programs of our trading partners and various U.S. states to determine if some elements of those statutes could be helpful in implementing the new law.

We are very concerned that USDA failed to identify or acknowledge any benefits of the country-of-origin labeling law. Numerous consumer surveys, polls and test markets have demonstrated that consumers strongly support country-of-origin labeling and would, in fact, pay market premiums for U.S.-labeled products. In its explanation of the proposed rule, the department states that benefits are difficult to quantify and dismisses the consumer test market studies. The cost-benefit analysis is flawed when a broad range of cost estimates, which are apparently based upon loose assumptions, are published while the estimates of benefits, that have been documented in numerous studies, are omitted.


In January 2004, the NFU commissioned a national poll of 900 likely voters on the issue of mandatory country-of-origin labeling. In this survey, 82 percent said they believed food should be labeled with country-of-origin information; 85 percent stated they would be more inclined to buy food produced in the United States; and 81 percent said they would be willing to pay a few cents more for food products grown and/or raised in the United States and identified as such. Our poll statistics are yet another demonstration of the widespread consumer support this law has across the nation.

According to the proposed rule, a one to five percent shift in consumer preference would be more than enough to pay the entire cost of the program. NFU believes there are a number of scenarios, both in domestic and foreign markets, where consumer preference would shift to U.S. products, creating a one to five percent shift in consumer demand, therefore recovering the cost of implementing the program.

It is the hope of Farmers Union that the department moves forward in releasing a final rule by the original September 30, 2004 deadline. The two-year delay on implementing labeling on all products except fish in the recently passed fiscal year 2005 omnibus appropriations spending bill is a regrettable decision that comes at the expense of American consumers, U.S. producers and our international trading relationships. Farmers Union maintains the original law provided sufficient flexibility for the department to release a rule that is neither burdensome on producers, processors or retailers, nor costly to implement. It is our hope that you will heed the advice of the majority of farmers and ranchers and follow the original intention of Congress while moving forward in promulgating a final rule.

Thank you for the opportunity to express our views and suggestions on the proposed rule for mandatory country-of-origin labeling.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Frederickson". The signature is fluid and cursive, with the first name "David" being the most prominent.

David J. Frederickson, President  
National Farmers Union